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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

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BY
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C11-05645

Case No.:

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

13 William Turnley,

14 Plaintiff,

15 vs.

16 Diversified Adjustment Service, Inc. ; and
17 DOES 1-10, inclusive,

18 Defendants.

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COMPLAINT FOR DAMAGES

For this Complaint, the Plaintiff, William Turnley, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to collect a consumer debt.

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.

PARTIES

17 4. The Plaintiff, William Turnley (hereafter "Plaintiff"), is an adult
18 individual residing in Dublin, California, and is a "consumer" as the term is defined
19 by 15 U.S.C. § 1692a(3).
20

21 5. Defendant Diversified Adjustment Service, Inc. (“Diversified”), is a
22 Minnesota business entity with an address of 600 Coon Rapids Boulevard, Coon
23 Rapids, Minnesota, operating as a collection agency, and is a “debt collector” as the
24 term is defined by 15 U.S.C. § 1692a(6).
25

1 6. Does 1-10 (the “Collectors”) are individual collectors employed by
2 Diversified and whose identities are currently unknown to the Plaintiff. One or more
3 of the Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

7. Diversified at all times acted by and through one or more of the
8 Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

13 8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to
14 Pacific Gas & Electric Company (the “Creditor”).

15 9. The Debt arose from services provided by the Creditor which were
16 primarily for family, personal or household purposes and which meets the definition
17 of a “debt” under 15 U.S.C. § 1692a(5).
18

19 10. The Debt was purchased, assigned or transferred to Diversified for
20 collection, or Diversified was employed by the Creditor to collect the Debt.
21

22 11. The Defendants attempted to collect the Debt and, as such, engaged in
23 “communications” as defined in 15 U.S.C. § 1692a(2).

1 **B. Diversified Engages in Harassment and Abusive Tactics**

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3 12. Within the last year, Diversified contacted Plaintiff in an attempt to
4 collect the Debt.

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6 13. During the initial conversation and during each conversation thereafter,
7 Plaintiff requested that Diversified cease placing calls to him and informed him that
8 he would not pay the Debt to Diversified.

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10 14. Thereafter, Diversified contacted Plaintiff at an excessive and harassing
11 rate, calling up to two (2) calls a day to Plaintiff in an attempt to collect the Debt.

12 15. During one conversation, Plaintiff advised Diversified that he would be
13 paying the Creditor and again instructed Diversified to cease all calls. Thereafter,
14 Diversified continued to place daily calls to Plaintiff.

15 16. Diversified often times caused Plaintiff's phone to ring with one call after
16 the other, causing Plaintiff a great amount of distress and frustration.

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18 **C. Plaintiff Suffered Actual Damages**

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20 17. The Plaintiff has suffered and continues to suffer actual damages as a
21 result of the Defendants' unlawful conduct.

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23 18. As a direct consequence of the Defendants' acts, practices and conduct,
24 the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety,
25 emotional distress, fear, frustration and embarrassment.

19. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants contacted the Plaintiff at a place and during a time known to be inconvenient for the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).

22. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

23. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

24. The Defendants employed false and deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

25. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

26. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT II

**VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788 et seq.**

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
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11 section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and
12 practices in the collection of consumer debts.

13 29. Diversified Adjustment Service, Inc., in the regular course of business,
14
15 engages in debt collection and is a “debt collector” as defined by Cal. Civ. Code §
16 1788.2(c).

17 30. The Defendants caused a telephone to ring repeatedly and engaged the
18 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
19
20 of Cal. Civ. Code § 1788.11(d).

24 32. The Defendants failed to comply with the provisions of 15 U.S.C. §
25
1692, *et seq.*, in violation of Cal. Civ. Code § 1788.13(e).

33. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

34. The Plaintiff is entitled to damages as a result of the Defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
 - B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;
 - C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;
 - D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
 - E. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);
 - F. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent

1 invasions of privacy in an amount to be determined at trial for the
2 Plaintiff;

3 G. Punitive damages; and

4 H. Such other and further relief as may be just and proper.

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7 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

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10 DATED: November 22, 2011

11 TAMMY HUSSIN

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13 By: /s/ Tammy Hussin
14 Tammy Hussin *Of Counsel*
15 Lemberg & Associates
16 Attorney for Plaintiff William Turnley

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